

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**FINAL EXAMINATION, MAY 2018**

**TITLE OF PAPER :      LAW OF DELICT II**

**COURSE CODE        :      LAW 304**

**TIME ALLOWED      :      THREE (3) HOURS**

- INSTRUCTIONS      :**
- 1.      ANSWER ANY FOUR (4) QUESTIONS.  
         MARKS ARE ALLOCATED AT THE END OF  
         EACH QUESTION OR PART OF A  
         QUESTION.**
  
  - 2.      CANDIDATES ARE THEREFORE ADVISED  
         TO      ALLOCATE      THEIR      TIME  
         ACCORDINGLY.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN  
GRANTED BY THE INVIGILATOR TO DO SO.**

### **QUESTION 1**

Tsabedze a private detective had installed a bugging device in Ngcamphalala's apartment. He was instructed to do so by Kayise the estranged wife of Ngcamphalala pending a divorce proceeding. Kayise suspected that her husband was having an affair and the purpose of the device was to listen to his private conversations.

Ngcamphalala is considering suing Tsabedze on the ground that he has violated his dignity.

Will he succeed?

(25 marks)

### **QUESTION 2**

Maseko is a Minister in the Mount of Olives Fellowship church. Maseko is desirous of suing Khumalo, a School Headmaster, for damages arising from an allegation that he had an affair with Khumalo's wife. Khumalo's wife had confessed to being unfaithful to her husband and to having had an intimate relationship with Maseko. Khumalo published this information to various persons, among them a magistrate, who was a member of the church but not in the same congregation as Maseko and Khumalo. Khumalo also sent the information to four others, three of whom are elders of the church and one a former elder.

Advise Maseko.

(25 marks)

### **QUESTION 3**

Dlamini a constable in the state of UNISWA Police Force, who is employed as a mechanic, seriously assaulted, wrongfully arrested and detained, and fabricated charges against Mphandlana. The assault and arrest had taken place when Dlamini had been off-duty, dressed in civilian clothing, in his private vehicle and at the scene clearly pursuing his own private interests.

Mphandlana wants to sue the Minister of Police as he is vicariously liable for Dlamini's wrongful conduct which he committed in the course and scope of his employment.

Discuss making reference to decided cases.

(25 marks)

### **QUESTION 4**

UNISWA Insurance Company had supplied inaccurate information with regard to an enquiry by Hlophe, the owner of a motor car, namely that the owner's insurance policy would only expire a year later. In fact, the policy had already lapsed. Afterwards Hlophe was involved in an accident as a result of which she suffered damage. UNISWA Insurance company refused to compensate her for the damage because the policy had lapsed.

Hlophe is considering claiming compensation from the company on the ground of negligent misrepresentation.

Advise her, illustrating your answer with decided cases. (25 marks)

### **QUESTION 5**

The church of the Living Light pitched a tent in the middle of Mbhuleni residential estate in Matsapha. For the past two months the tent has been holding revivals which are to continue for five more months. The church runs the revivals daily from 5.00 p.m. to past midnight. The services are characterised by very loud singing, accompanied by musical instruments, clapping of hands plus stamping of feet and loud screams from the congregants when they are in religious ecstasy.

This state of affairs has greatly affected the residents of the estate who claim that they now suffer from sleep deprivation and generally not enjoying the peaceful and quiet life they had before the start of the revivals.

They wish to interdict the church. Advise them making reference to decided cases. (25 marks)